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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,912	07/10/2003	Olivier Phely	03114	9536

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EXAMINER	
STORMER, RUSSELL D	

ART UNIT	PAPER NUMBER
3617	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/615,912	PHELY, OLIVIER	
	Examiner	Art Unit	
	Russell D. Stormer	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-14 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 7/10/03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Specification

1. The use of the trademark CATERPILLAR has been noted in this application. It should be capitalized wherever it appears in the disclosure *and* be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Since the trademark CATERPILLAR refers to a large company which manufactures tractors and other vehicles, and the term is not necessarily synonymous with endless belts, there is no reason for the instant application to use this trademarked name. A better term would "endless track" or endless belt."

2. The disclosure is objected to because of the following informalities: The spelling of terms such as "favourably" and "centre" must be corrected.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of the claims a range of diameters is set forth, then the term "preferably" is used to further narrow the range. This indefinite as it is a range within a range, and it is not clear which measurements Applicant is claiming. Further, the term "close to" is vague and indefinite and does not clearly limit the diameter. Note that 0.25 is "close to" 0.2 and 0.3; and 5 is "close to" 4 and 6.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 3, 6, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Peterson et al.

With respect to claim 4, note that the central bundle or strand 60 is surrounded by six strands.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al in view of Kuriya (EPO 568271; cited by Applicant).

For the filaments of the cables of Peterson et al to be comprised of a central core of three filaments, surrounded by an intermediate layer of nine filaments, which in turn is surrounded by an outer layer of fifteen filaments would have been obvious as taught by Kuriya as this arrangement has been shown to provide good resistance to elongation of rubber articles such as industrial belts. Although Kuriya does not specifically disclose the cable being used in an endless track, an endless track can be considered to be an industrial belt, and the problem of unwanted elongation is a problem in all belts of this nature.

9. Claims 8, 9, 11, 12, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al in view of Kuriya.

Katayama et al discloses an endless track comprising an elastomeric belt and a plurality of reinforcing cables. As shown in figures 2 and 5, the cables comprise longitudinal cables 7 and layers of lateral cables 8 which have different widths. The cables are not disclosed as being wound in a helix, but such an arrangement is well-known and would therefore have been obvious to those of ordinary skill in the art as a

functionary equivalent structure which would obviate the need for connectors for the ends of the cables. The composition of the cables 8 is not specified.

Kuriya teaches a structure for a cable comprising a first core 2 of three filaments, a second intermediate layer 4, and an outer layer 6. From this teaching it would have been obvious for the cables of Katayama et al to comprise multiple layers of filaments as this would provide a strong and suitable cable for the track.

With respect to claims 9 and 11-13. the number of transverse layers of cable, their positioning within the belt, and the directions of the cables are all obvious as mechanical expedients as such are all well-known and those of ordinary skill in the art could readily choose which arrangements were best suitable for the intended use of the track.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al in view of Kuriya as applied to claim 9 above, and further in view of Japanese document 55-119572.

For the cables to comprise a layer on the inner side of the belt would have been obvious as taught by Japanese '572 in order to further reinforce the belt.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show other endless tracks which are reinforced by cables.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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4/28/05

RUSSELL D. STORMER
PRIMARY EXAMINER 4/28/05